

# **Zoning Board of Appeals**

TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, New York 12180

## **MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD August 19, 2013**

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Board members noted that at the July 15, 2013 meeting, the minutes of the June 17 meeting were approved. However, the Zoning Board members now note that the minutes of the June 17 meeting incorrectly identified the meeting date as “July 17”, rather than “June 17”. Such correction is noted for the record. With respect to the draft minutes of the July 15, 2013 meeting, a motion was made by Chairman Steinbach to approve the minutes as written, which motion was seconded by Member Hannan. The motion was unanimously approved, and the minutes of the July 15, 2013 meeting approved without amendment.

The first item of business on the agenda was the area variance application submitted by McDonald’s USA, LLC with respect to installation of signage at their restaurant located at 780 Hoosick Road. Chris Boyea of Bohler Engineering was present for the Applicant. Chairman Steinbach requested that Mr. Boyea make a brief presentation regarding the application. Mr. Boyea stated that he had appeared before the Zoning Board of Appeals at its meeting held July 15, and initially presented the signage plan at that time. Mr. Boyea stated that the restaurant is located at 780 Hoosick Road, and that McDonalds was pursuing a reinvestment at this location, which includes both an interior remodeling as well as an exterior re-imaging. With respect to the exterior renovations, Mr. Boyea stated that the owner will seek to remove the existing roof and replace it with straight parapet walls, and also to install a second menu board to the rear of the

restaurant at the drive-thru area. Mr. Boyea stated that the site plan for these exterior renovations had been approved by the Brunswick Planning Board. With respect to the proposed signage, Mr. Boyea stated that with the removal of the mansard roof and lighted roof beams, the McDonalds restaurant was moving some of the “McDonald’s” identity, and was seeking to replace the existing signage with two wall signs facing Hoosick Road, and two smaller signs on the side of the building. Mr. Boyea stated that the free standing sign toward the front of the parcel would remain. Mr. Boyea stated that this exterior renovation would be similar to the new McDonalds restaurant recently built on Hoosick Street in the City of Troy. Following this presentation, Chairman Steinbach then opened the floor for receipt of public comment. The Notice of Public Hearing was read into the record, noting that the notice had been published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed to owners of all adjacent properties. No members of the public provided comment. Chairman Steinbach asked whether the Zoning Board members had any questions for the Applicant. Member Hannan stated that he felt the exterior renovation was a nice improvement and appreciated the investment in the property, and had no further questions or comments. No other Board members had any questions or comments. Hearing none, Chairman Steinbach stated he would entertain a motion to close the public hearing. Member Balistreri made a motion to close the public hearing, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing on the McDonalds area variance for signage was closed. Chairman Steinbach then stated that the application was complete and ready for action, in the event the Board wished to move forward with a determination. Attorney Gilchrist stated that in the event the Board sought to move forward with the determination, that a determination of environmental significance under SEQRA was required for this application. Thereupon, Member Hannan stated that based on the application information, it was his opinion that this application would not result in a

significant adverse impact upon the environment, and moved to adopt a negative declaration under SEQRA. Member Schmidt seconded the motion. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members reviewed the elements for area variance and deliberated on the application information. First, the Zoning Board members concurred that the site renovations would not result in an undesirable change in the character of the neighborhood, since this had been a McDonalds restaurant for several years. The Zoning Board members found that although the total number of signs and the square footage of signage were in excess of Town Code limitations, the signs would not result in an undesirable effect on the character of the neighborhood or create a detriment to nearby properties, and further that the new signage would be an improvement to the existing state of the property. The Zoning Board members also found that while the signs could be smaller, the proposed exterior renovations could be viewed as removing some of the “McDonald’s” traditional identity, and the new signage would be consistent with the proposed exterior renovations. The Zoning Board members also found that the variance was not substantial, given the fact that the existing window “signage” in the current restaurant would be eliminated, and that the total square foot of the signage being proposed now is consistent with the exterior building renovation plan. The Zoning Board members agreed that the total square footage, as well as the total number of signs, were not substantial and were consistent with the proposed building renovation. The Zoning Board members determined that the area variance for the signage would not have an adverse affect on the physical or environmental conditions in the neighborhood, particularly in light of the existing restaurant and existing signage at that location. The Zoning Board members also stated that while the requested variance is self-created in some respect, this is an existing facility with existing signage, and the Applicant was looking to merely update the exterior of the restaurant building. Chairman Steinbach confirmed with Mr. Kreiger that this application had been

forwarded to the Rensselaer County Office of Economic Development and Planning, and Mr. Kreiger confirmed that the application had been referred and that the County Planning Department did not have any objection and stated that local considerations shall prevail. Thereupon, a motion was made by Member Hannan to approve the area variance for the signage, both with respect to the square footage of the signs and the total number of the signs. That motion was seconded by Member Schmidt. The motion was approved by a vote of 4/1, with Member Trzcinski opposed to granting the sign variance. Accordingly, the variance application was approved for signage at the McDonald's restaurant located at 780 Hoosick Road, both with respect to the square footage of signs and the total number of signs.

The next item of business on the agenda was the area variance application submitted by Richard A. Russell for property located at 14 Colehammer Avenue. Richard Russell was present on the application. Chairman Steinbach requested that Mr. Russell make a brief presentation concerning his proposed project. Mr. Russell stated that he was proposing to install a two-car garage with a size of 24' x 28' to replace an existing 12' x 10' shed located on his property. Upon reviewing this matter with Mr. Kreiger, Mr. Russell stated that he was aware that he needed a side yard setback variance, requesting a setback of 8' 6" where the Town Code requires a setback of 15'. Mr. Russell also stated that based on the design of the garage, which has a height of 14' at its roof peak, a variance for height is also requested, since a height of 12' is set forth in the Town Code for this structure. Chairman Steinbach then opened the public hearing for this application. The Notice of Public Hearing was read into the record, noting that the notice had been published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed to owners of all adjacent properties. There were no members of the public who wished to comment on this application. Chairman Steinbach asked whether any of the Board members had questions or comments. Member Trzcinski inquired whether Mr. Russell

would be installing any stairs to the attic space in the garage. Mr. Russell stated that there would be only stairs on the interior of the building to access the upper area of the garage for storage only. Chairman Steinbach wanted to confirm that the garage, including the upper or attic area of the garage, would be used for storage purposes only, and was not being proposed for any potential habitation or apartment use. Mr. Russell confirmed that this garage would be for storage only, and not for any habitation. Chairman Steinbach wanted to confirm that the existing shed would be removed. Mr. Russell said that the existing shed would be removed and that the proposed garage would be placed in its location. Chairman Steinbach wanted to confirm that Mr. Russell had spoken to his adjacent neighbor closest to the proposed garage. Mr. Russell stated that he had spoken with that property owner, and that he did not have a problem with the construction of the garage as proposed. Mr. Russell stated that he had spoken to all of his surrounding neighbors, since he had lived at his house at 14 Colehammer Avenue for 30 years, and that he did not want any problems with his neighbors. Chairman Steinbach then wanted to inquire as to the necessity of the height variance of this structure. Mr. Kreiger confirmed that given the design of the garage, the highest point was 14' above grade, and that while height variances for these types of garages were rare, one was required on this project. On that issue, Member Schmidt stated that because of the slope and decrease in topography from the house to the location where the garage is being proposed, the garage would not look out of place or significantly higher than the existing home. The Board members did confirm that there was approximately a 7'-8' drop in slope from the home to the driveway location where the garage was being proposed to be built. Member Balistreri also confirmed with Mr. Russell that the trees located to the rear of the lot which would be behind the garage would remain in place, and would not be cut down as a result of this project. Mr. Russell confirmed that all the trees in that location would remain in place. The Zoning Board members had no further questions or

comments on the application. Thereupon, Chairman Steinbach closed the public hearing on the Russell area variance application, with concurrence of the Zoning Board members. Attorney Gilchrist noted that this application seeks an area variance for a single family home, and therefore constitutes a type II action under SEQRA. The Zoning Board members then deliberated on the area variance information. The Board members concurred that the construction of the proposed garage at this location would not result in an undesirable change in the character of the neighborhood, or create a detriment to nearby properties, but would be consistent with the surrounding residential uses. The Board members also concurred that due to the topography of the lot, the property did not allow for another location for the proposed garage, and that given the slope in this area of the lot, the proposed location of the garage was the most appropriate location and did require that the garage be closer to the lot line than the 15' side yard setback. The Board members further concurred that the side yard setback variance was not substantial, and while the height variance was unusual, it also was not determined to be a substantial variance. The Board members concurred that the garage location would not have an adverse effect on the physical or environmental conditions in the neighborhood, but rather would be consistent with the land use and blend into the residential area. Finally, the Board members found that the need for the variance was not self-created, but was rather due to the slope and topography of the lot. Upon conclusion of their deliberation, Chairman Steinbach entertained a motion made by Member Schmidt to approve the area variances, both with respect to the side yard setback and the height of the proposed structure, which motion was seconded by Member Hannan. The motion was unanimously approved, and the area variances granted.

The next item of business on the agenda was the Duncan Meadows Planned Development District amendment, which is before the Zoning Board for review and recommendation. Appearing for the Applicant were Peter Yetto, P.E., as well as Dr. Paren Edwards and Peter

Amato. Mr. Yetto presented a brief update, noting that only minor technical modifications had been made to the plan as a result of review by the Town consulting engineer. Mr. Yetto reviewed the proposed layout of the project, which continues to provide for a total of 88 units and 176 bedrooms, but reducing the total number of buildings from 11 to 8, and increases the total number of units per building from 8 to 11 units. Mr. Yetto stated that the balance of the project remains essentially unchanged, with no significant changes to the water or sewer design or demands, and no significant changes to the stormwater plan. Mr. Yetto also stated that given the same number of units and total bedrooms, that the traffic generation and school age children for the project remained essentially unchanged. Mr. Yetto did note that since the total impervious area has been reduced through reduction in total number of buildings and a small reduction in road length, that the stormwater ponds are similarly reduced in size given the reduced stormwater runoff. Mr. Yetto also noted that the project design had been reviewed by the Town's consulting engineer, Town Water and Sewer Department, as well as the Fire Department. Attorney Gilchrist noted that the Brunswick Planning Board had completed its review and written recommendation, and that a copy of that recommendation had been forwarded to the Zoning Board and had been reviewed by the Zoning Board members. Member Schmidt confirmed that he had reviewed the Planning Board recommendation, and concurred that the current proposed amendment did not result in any significant changes to the overall project that was previously approved by the Town. Member Trzcinski addressed issues concerning the road layout and parking areas with Mr. Yetto. Member Balistreri confirmed that there was only one access point in and out of the project road, and Mr. Yetto stated that this was consistent with the prior project design approved by the Town, but that the Applicant had now added a boulevard which helps promote two way traffic in and out of the facility. Member Balistreri wanted to confirm that there was no proposed expansion in the future. Mr. Yetto stated

that there was no proposal for expansion, and that the areas outside of the building envelope would remain green. Chairman Steinbach confirmed that he had also reviewed the Planning Board's findings and recommendation, that he was generally in agreement with the proposed amendment as represented by the Applicant, and felt the Zoning Board should consider concurring in and adopting the recommendations of the Planning Board. The remaining Zoning Board members agreed with this approach. Accordingly, Member Hannan made a motion to adopt the findings and recommendations set forth in the Brunswick Planning Board's recommendation for this application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the Zoning Board recommendation on the proposed amendment to the Duncan Meadows Planned Development District adopts and incorporates the findings and recommendations set forth by the Brunswick Planning Board.

The next item of business on the agenda was the Oakwood Property Management Planned Development District application, which was before the Zoning Board for review and recommendation. Chris Boyea of Bohler Engineering was present for the Applicant, and gave a brief presentation regarding the project. Mr. Boyea generally described the project, which proposes 250± apartment units in a mix of building styles and sizes for the project site. The project site consists of approximately 80 acres, and is proposed for the area of the prior mulch operation conducted by Oakwood Property Management. Mr. Boyea confirmed that in connection with the project development, the mulch operation would cease, and the property would be transitioned to residential/apartment use. Mr. Boyea stated that there were two access ways proposed off Oakwood Avenue, and generally reviewed the site traffic flow. Mr. Boyea confirmed that the Brunswick Planning Board had completed its review and recommendation on this application. Member Trzcinski inquired as to the total number of parcels included in the project. Attorney Gilchrist reviewed with the Zoning Board members that the application

included 4 tax parcels, including the “Schools & Cemeteries” and “Agricultural A-40” parcels that were the subject of the prior zoning litigation between the Town of Brunswick and Oakwood Property Management, LLC. The application also includes the 5 acre industrial parcel on which Oakwood Property Management has its office and garage, as well as an adjacent parcel to the north which Oakwood Property Management previously acquired and which is also zoned industrial. Member Trczinski confirmed that the internal road system for this project would remain private, and be maintained by the private owner. Chairman Steinbach inquired about traffic generation, and whether the traffic light which is to be installed at the intersection of Oakwood Avenue and Farrell Road would impact this project. Mr. Boyea stated that the Planning Board had also raised this issue, and that his office was analyzing that issue and it would be addressed during the SEQRA review conducted by the Town Board. Member Balistreri asked about the area immediately adjacent to Oakwood Avenue, and whether that was included in the PDD application. Mr. Boyea stated that all of the property adjacent to Oakwood Avenue owned by the property owner and located in the Town of Brunswick was within the PDD proposal, but that most of the area adjacent to Oakwood Avenue consisted of wetlands and was not being proposed for construction. Member Trzcinski confirmed that the former greenhouse structures located on the parcel located in the northern area of the project site would be removed. Mr. Boyea confirmed that the greenhouse structures would be removed if the PDD is approved for construction. Member Steinbach confirmed that the Planning Board recommendation had been received and reviewed by the Zoning Board members, and that he generally concurred with those findings and recommendations, noting that issues concerning lighting and noise would be reviewed as part of the SEQRA review and considered by the Town Board. The Zoning Board members generally concurred that upon review of the Planning Board recommendation, the Zoning Board members concurred in those findings and recommendations.

Hearing this, Chairman Steinbach entertained a motion by Member Trzcinski to adopt the findings and recommendations contained in the Planning Board recommendation on this application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the Zoning Board adopted and incorporated the findings and recommendations set forth in the Brunswick Planning Board's recommendation on this application. Attorney Gilchrist reviewed the specific considerations and conditions set forth in the Planning Board recommendation, noting for the record that the areas located to the east of the building envelope for this project which are currently in a treed and vegetated state would remain in a green and vegetated state and act as a vegetated buffer between the apartment use and the residential uses located to the east in the North Forty subdivision. Chairman Steinbach entertained a comment from Michael Schongar, who was present at the meeting, who stated for the record that he was in favor of a residential use for this location and was happy that the prior mulch operations would cease, that he felt the maintenance of the vegetated buffer was a good idea, and was looking forward to having the noise conditions generally improved.

There were two items of new business discussed.

The first item of new business discussed was an area variance application submitted by Dolores Coblisch, 10 Petticoat Lane, for the maintenance of an existing shed used as a chicken coop on the parcel. Ms. Coblisch stated that as a result of a complaint by her neighbor, the Town of Brunswick informed her that the shed was in violation of the front setback and side yard setback requirements of the Code, necessitating the current application seeking an area variance. Ms. Coblisch generally discussed the use and location of the shed as a chicken coop on the parcel, handing up a schematic of the site. Ms. Coblisch explained that a 60' front yard setback is required for this zoning district, and that a 20' front yard setback is being proposed. Ms. Coblisch also stated that a right yard setback of 15' is required, whereas a 10' side yard setback is being

proposed. Ms. Coblisch explained that she purchased this house approximately 2 years ago, and that another neighbor had offered her the shed because Ms. Coblisch's daughter wanted to raise and show chickens. Mr. Kreiger confirmed that a chicken coop was allowed in this zoning district, and that the size of this particular coop did not require a building permit, however, the location of the chicken coop did need to meet setback requirements in the zoning code. Member Hannan inquired how many chickens were housed in the chicken coop. Ms. Coblisch stated that she owned 6 chickens, and that 5 more were currently being housed in the chicken coop. Chairman Steinbach asked if the structure was moveable. Ms. Coblisch confirmed that the coop was moveable, that it is currently just sitting on the ground, and that there is no base or foundation. Chairman Steinbach confirmed with Mr. Kreiger the history of this matter, including letters issued from the Town Building Department requiring code compliance for setbacks, and the need for the subject area variance application. Ms. Coblisch then offered that she could move the shed further to the rear of the property and meet the 60' front setback, but that she cannot meet the side yard setback because there would not otherwise be access to the backyard if the shed was moved more toward the rear of the lot adjacent to the house. Member Trzcinski confirmed that the Zoning Board members had access to the parcel to take a look at the chicken coop in its location on the lot. Ms. Coblisch confirmed the Zoning Board members had access to her lot. The Zoning Board members concurred that there was adequate information in the application to conduct a public hearing. This matter is set down for public hearing for the September 16 meeting to commence at 6:00 p.m.

The next new item of business addressed was an area variance application submitted by Monolith Solar on behalf of Kathryn Knipple for property located at 144 Brunswick Road. Chris Hall of Monolith Solar was present on the application, together with another representative of Monolith Solar. Mr. Hall reviewed the history of this matter, which included the Town issuing a

building permit for the installation of a ground mount solar panel array. The building permit issued was for a solar panel array installation location that was in compliance with the setback requirements for the zoning district. The location for the installation was later shifted closer to the property line, without notice to the Building Department. Mr. Hall stated that the adjacent neighbor, whose lot line was closest to the solar panel location, had agreed to the new solar panel location and did not have a problem with it. Mr. Hall stated that the new location for the solar panel installation provided for the best location in terms of sun access, a shorter run for electrical connection, and addressed a slope issue on the lot. The solar panel array was installed 5 feet from the side yard lot line. After the installation was complete, the adjacent property owner did notify the Town that the solar panel array had been built in a location that did not meet the setback requirements. Mr. Hall did confirm that the building permit that was issued stated that a 15' side yard setback would be maintained, but that it was ultimately built to within 5' of the side yard lot line. Mr. Hall did say that the lot was heavily treed, and that the solar panel array was barely visible from surrounding properties. Chairman Steinbach asked why the company had not consulted the Building Department before constructing in the revised location. Mr. Hall confirmed that this was an honest mistake, and that he should have gone to the Building Department but had neglected to do so. Member Hannan asked whether one section of panels could be removed, so that the entire solar panel array did not need to be relocated. Mr. Hall stated that this was not an option due to the framing for the solar panel array, but that if the entire array did need to be relocated he could move the entire solar panel rack 10' to meet the 15' side yard setback requirement, but that the Applicant was proposing the area variance to allow the solar panel array to stay in its current location. The Zoning Board members concurred that the application contained sufficient information to conduct the public hearing. This matter is set down for public hearing at the September 16 meeting to commence at 6:00 p.m.

The index for the August 19, 2013 meeting is as follows:

1. McDonald's USA, LLC – area variance for signage – granted.
2. Russell – area variance – granted.
3. Duncan Meadows Planned Development District Amendment – review and recommendation – recommendation adopted.
4. Oakwood Property Management, LLC Planned Development District – review and recommendation – recommendation adopted.
5. Coblisch – area variance – 9/16/13 (public hearing).
6. Monolith Solar – area variance – 9/16/13 (public hearing).

The proposed agenda for the September 16, 2013 meeting currently is as follows:

1. Coblisch – area variance (public hearing).
2. Monolith Solar – area variance (public hearing).